



## DEPARTMENT OF VETERANS AFFAIRS

### Notice of Request for Information Regarding Health Care Access Standards

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Request for information.

**SUMMARY:** The Department of Veterans Affairs (VA) is requesting information from the public to inform VA's review of access standards for furnishing hospital care, medical services and extended care services to covered veterans, for purposes of the Veterans Community Care Program (VCCP). Specifically, VA requests information regarding access standards, including but not limited to, information regarding health plans on the use of access standards for the design of health plan provider networks; referrals from network providers to out-of-network providers; the appeals process for exemptions from benefit limits to out-of-network providers; and the measurement of performance against Federal or State regulatory standards. Further, VA is requesting input on Veterans' experience with the access standards established in 2019.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments may be submitted through [www.regulations.gov](https://www.regulations.gov). Comments should indicate that they are submitted in response to "Notice of Request for Information Regarding Health Care Access Standards."

**FOR FURTHER INFORMATION CONTACT:** Natalie Frey, Management Analyst, Office of the Assistant Under Secretary for Health, Office of Community Care, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420; 720-429-9171. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** The John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated

Outside Networks Act of 2018, P.L. 115–182, (VA MISSION Act of 2018) added section 1703B to title 38, United States Code, which required VA to establish access standards for furnishing hospital care, medical services or extended care services to covered Veterans under VCCP. VA established these access standards through rulemaking on June 6, 2019, at 38 C.F.R. § 17.4040. Section 1703B(c) specifically requires VA to consult with all pertinent Federal entities, entities in the private sector and other non-governmental entities in establishing access standards. Section 1703B(e) requires VA, not later than 3 years after the date on which VA establishes access standards, and not less frequently than once every 3 years thereafter, to conduct a review of the established access standards and submit to the appropriate committees of Congress a report on the findings and any modification to the access standards. In reviewing these access standards, VA is choosing to consult with pertinent Federal, private sector and non-governmental entities. VA will use the comments received to help review the access standards established in June 2019. VA will then submit a report (in June 2022), as required by section 1703B(e)(2). Responses to this notice will support industry research and VA's evaluation of access standards.

This notice is a request for information only. Commenters are encouraged to provide complete, but concise responses to the questions outlined below. VA may choose to contact individual commenters, and such communications would serve to further clarify their written comments.

**REQUEST FOR INFORMATION:** VA requests information that will assist in reviewing the access standards, as required by section 1703B. This includes information regarding access standards, including but not limited to, information with regard to health plans on the use of access standards for the design of health plan provider

networks; referrals from network providers to out-of-network providers; the appeals process for exemptions from benefit limits to out-of-network providers; and the measurement of performance against Federal or State regulatory standards. Regarding health systems, VA requests information from the public including, but not limited to, the existence of standards for appointment wait times; the use of travel distance for establishing service areas; the development or use of guidelines to refer patients to out-of-system providers; the utilization of virtual health services; and the measurement of performance against Federal or State regulatory standards. VA's specific requests for information are as follows:

1. Do health plans use internal access standards for the design of provider networks and the application of in-network/out-of-network benefits that are more stringent than regulatory standards (time or distance of travel, appointment wait times, provider/member ratios)? If so, what are these internal standards? Has the COVID-19 pandemic affected established access standards? How does the health plan measure performance against regulatory and internal access standards? How does the health plan respond to findings when access standards are not being met? Are current regulatory access standards cost-effective while maintaining quality standards? Do health plans have a process to handle routine requests from members or to refer providers for exemptions to benefit limits when members seek out-of-network care or a lower tier provider?
2. Do health plans allow for appeals, by providers or members, to request exemptions from benefit limits related to out-of-network care or care by a lower tier provider? Is external review allowed for such appeals?
3. What are health plan practices regarding internal, regulatory and/or accreditation standards for appointment wait times, including variance by specialty or type of service? How does the health plan use travel distance or time, and/or provider-

to-population ratios, in deciding which geographic areas to consider as primary or secondary service areas? How do health plans use financial modeling/impact to inform established access standards?

4. What virtual health services (e.g., telehealth and telephonic) do health systems provide? Are virtual health services used to ensure compliance with established access standards?
5. Are clinicians within the health system given guidelines or rules on when to refer patients to out-of-system providers? For example, are clinicians encouraged to refer out-of-system if in-system wait times are longer than standard; travel time or distance to an in-system provider is too long; the patient's ability to travel is compromised; or the frequency of treatment makes travel to an in-network provider difficult?
6. What are Veterans' experiences with, and feedback on, the VA access standards established in 2019?

#### Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on October 6, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

**Michael P. Shores,**

*Director,*

*Office of Regulation Policy & Management,*

*Office of General Counsel,*

*Department of Veterans Affairs.*

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